

GENERAL GUIDELINES FOR CALIFORNIA ENDANGERED SPECIES ACT (CESA) PERMITS, CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DOCUMENTS, AND LAKE AND STREAMBED ALTERATION AGREEMENTS

CESA Incidental Take Permits

(in accordance with Section 2081, Fish and Game Code and Section 783.5 California Code of Regulations):

An application for a CESA incidental take permit shall be submitted to the **Regional Manager**.

- 1) The Department shall complete an initial review of the application within 30 days of receipt.
- 2) If the Department determines that the application is complete, it shall notify the applicant in writing that the application has been accepted and commence review of the permit application. If an incomplete application is submitted, the Department shall return it to the applicant with a description of the deficiency. The applicant has 30 days from receipt of the returned application to correct the deficiency and re-submit the application.
- 3) The Department then shall issue a permit or deny the application within the following time period:
 - a) 90 days from the date on which the lead agency approves the activity, if the project has not yet been approved when the permit application was submitted (in other words, the lead agency must have adopted a negative declaration or certified an EIR and approved the project), or
 - b) 90 days from the date on which the Department accepted the application as complete.
- 4) The Department may make a written finding that additional time is necessary for acting on a permit, due to the complexity of the application or the scope of the requested permit, and extend the 90 day period for acting on the permit by an additional 60 days, for a total of 150 days.

CESA Consistency Determinations

(In accordance with Section 2080.1, Fish and Game Code)

An application for a CESA consistency determination shall be submitted to the **Director**.

When the Director receives a notice that a person (or agency) has received an incidental take statement or incidental take permit issued pursuant to the federal Endangered Species Act of 1973, the Director shall make a determination, within 30 days of receipt of the notice, whether the incidental take statement or incidental take permit is consistent with the California Endangered Species Act.

(**Note:** It is in the applicant's best interest to consult with Department staff before applying for a consistency determination. When it issues a consistency determination, the Department makes a determination of whether the federal incidental take statement or incidental take permit is consistent with the California Endangered Species Act. Because federal incidental take statements or incidental take permits only address federally listed species, the Department can make a consistency determination only for projects where the affected species are **both state and federally listed**. Therefore, if a project involves state-only listed species, the applicant would have to apply for a CESA incidental take permit under Section 2081 of the Fish and Game Code, for state-only listed species.

Consequently, if a project involves both dually-listed and state-only listed species, the Department would encourage, and it would be more time and work efficient for the applicant to apply for a CESA incidental take permit for all of the state-listed species involved, rather than applying for a consistency determination for the dually listed species and an incidental take permit for the state-only listed species.)

Lake and Streambed Alteration Agreements

(In accordance with Section 1600, Fish and Game Code)

The following is a brief summary of the time periods involved in issuing a lake and streambed alteration agreement. Additional information can be found in the following website: <http://www.dfg.ca.gov/1600/>

Pursuant to Section 1601 of the Fish and Game Code, any state or local government agency or public utility ("agency") that intends to carry out a project that may affect the natural flow or bed, bank, or channel, of any river, stream or lake, must submit the plans to the Department of Fish and Game.

If, upon review of those plans, the department determines that the proposed project will have a substantial adverse affect on existing fish or wildlife resources, the department shall notify the agency of the existing fish or wildlife resource and potential project impacts. The department shall propose reasonable modifications to the construction that will protect and allow the continued existence of the fish or wildlife resource, and submit the proposals to the agency, within 30 days of receipt of the plans. If the department determines and notifies the affected parties that an onsite investigation is necessary, or the agencies involved request an onsite investigation, the department shall make an onsite investigation of the proposed construction before it proposes any modifications.

The agency shall notify the department in writing if the proposals are acceptable or not acceptable, within 14 days of receipt of the department's proposals. If the department's proposals are not acceptable to the agency, the department, upon request, shall meet with the agency within seven days of receipt of the notification, to develop proposals that are acceptable to the department and the agency.

If mutual agreement cannot be reached, a panel of arbitrators shall be established pursuant to Section 1601, within seven days from the date of the meeting and arbitration shall be completed within 14 days from the date the panel is established.

All of the time periods stated above may be extended by mutual agreement.

An agency proposing a project subject to Section 1601 shall not commence operations on that project until the department has found that the project will not have a substantial adverse effect on existing fish or wildlife resources, or until the department's proposals or the decisions of the arbitration panel have been incorporated into the project.

Although the following projects are exempt from Section 1601, the agency carrying out those projects must notify the department within 14 days from the date of commencement of the project:

- 1) Immediate emergency work necessary to protect life or property.
- 2) Immediate emergency repairs to public service facilities necessary to maintain service in disaster-stricken areas where the Governor has declared a state of emergency.
- 3) Emergency projects carried out by a public agency to maintain, restore, or repair an existing highway (not including official state scenic highways), damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Projects to expand or widen a highway damaged by the above causes are **not exempt** from Section 1601.